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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,121	03/17/2004	Morton Beroza	0082.04	5292

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EXAMINER	
PARSLEY, DAVID J	
ART UNIT	**PAPER NUMBER**
3643	

DATE MAILED: 03/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/803,121	BEROZA, MORTON	
	Examiner	Art Unit	
	David J. Parsley	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 January 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *18-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *18-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Detailed Action

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1-3-06 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 18, 21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 1,056,535 to Grimes et al. in view of U.S. Patent No. 6,543,181 to Baker et al. or Grimes et al. in view of U.S. Patent No. 6,585,990 to Huang.

Referring to claims 18, 21 and 23, Grimes et al. discloses a trap comprising a device/method for providing uniform emission of a flying insect attractant, consisting of a container – at 10,14, having a top surface, a bottom surface and side walls – see for example

figure 2, having a composition of at least one volatile liquid attractant – at 11, for targeting at least one flying insect species, and a first opening –proximate 16 in the top of the container – see for example figure 2 to receive an adjustable wick – 16, frictionally inserted into the first opening of the container – see for example figure 2, wherein the wick area exposed to the atmosphere can be increased or decreased over time to maintain maximum attractant emission – see for example figure 2, and a second opening – proximate 14a, in the top of the container, smaller than the first opening and large enough to prevent film closure by a liquid – see for example figure 2, wherein the second opening maintains air pressure in the container wherein the container emits the at least one volatile attractant for at least about six months without replenishment of the attractant – see for example figures figure 2. Further, the Grimes et al. reference discloses hanging the device – see at 13 in figure 1. Grimes et al. does not disclose a volatile liquid attractant that is specific for one targeted flying insect species. Baker et al. does disclose volatile liquid attractant that is specific for one targeted flying insect species – see column 2 lines 62-67 and column 2 lines 1-34 where the specific one targeted insect is fruit flies. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Grimes et al. and add the volatile liquid attractant being specific for one targeted flying insect species of Baker et al., so as to allow for the device to only eradicate the selected species of animals intended by the device. Further, the Huang reference discloses volatile liquid attractant that is specific for one targeted flying insect species – see column 3 lines 39-48 where the targeted insect is houseflies. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Grimes et al. and add the volatile liquid attractant being specific for one

targeted flying insect species of Huang, so as to allow for the device to only eradicate the selected species of animals intended by the device.

Claims 19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grimes et al. as modified by Huang as applied to claims 18 and 21 above.

Referring to claims 19 and 22, Grimes et al. as modified by Huang further discloses the composition further includes at least one volatile insecticide wherein the at least one volatile insecticide is absorbed by the wick – see for example at 3,11 in figure 1a and column 5 lines 48-63 of Huang.

Claims 18-19 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,254,948 to Kubalek in view of Baker et al. or Kubalek in view of Huang.

Referring to claim 18, 21 and 23, Kubalek discloses a trap comprising a device/method for providing uniform emission of a flying insect attractant, consisting of a container – at 10,13,14, having a top surface, a bottom surface and side walls – see for example figures 1-2, having a composition of at least one volatile liquid attractant – at 12,23, for targeting at least one flying insect species, and a first opening – proximate 11, in the top of the container – see for example figures 1-2, to receive an adjustable wick – at 11, frictionally inserted into the first opening of the container – see for example figures 1-2, wherein the wick area exposed to the atmosphere can be increased or decreased over time to maintain maximum attractant emission – see for example figures 1-2, and a second opening – at 19 or 20, in the top of the container, smaller than the first opening and large enough to prevent film closure by a liquid – see for example figures 1-2, wherein the second opening maintains air pressure in the container wherein the container emits the at least one volatile attractant for at least about six months without

replenishment of the attractant – see for example figures 1-2 page 1 column 2 lines 34-37 of Kubalek. Further, the Kubalek reference discloses hanging the device – see at 21-22. Kubalek does not disclose a volatile liquid attractant that is specific for one targeted flying insect species. Baker et al. does disclose volatile liquid attractant that is specific for one targeted flying insect species – see column 2 lines 62-67 and column 2 lines 1-34 where the specific one targeted insect is fruit flies. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Kubalek and add the volatile liquid attractant being specific for one targeted flying insect species of Baker et al., so as to allow for the device to only eradicate the selected species of animals intended by the device. Further, the Huang reference discloses volatile liquid attractant that is specific for one targeted flying insect species – see column 3 lines 39-48 where the targeted insect is houseflies. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Kubalek and add the volatile liquid attractant being specific for one targeted flying insect species of Huang, so as to allow for the device to only eradicate the selected species of animals intended by the device.

Referring to claims 19 and 22, Kubalek as modified by Baker et al. further discloses the composition further includes at least one volatile insecticide wherein the at least one volatile insecticide is absorbed by the wick – see for example figure 2 and page 1 column 2 lines 26-37 of Kubalek.

Referring to claims 19 and 22, Kubalek as modified by Huang further discloses the composition further includes at least one volatile insecticide wherein the at least one volatile insecticide is absorbed by the wick – see for example figure 2 and page 1 column 2 lines 26-37 of Kubalek.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grimes et al. as modified by Baker et al. or Grimes et al. as modified by Huang as applied to claim 18 above, and further in view of U.S. Patent No. 2,176,345 to Hurwitt. Grimes et al. as modified by Baker et al. and Grimes et al. as modified by Huang further disclose the first opening – proximate 16 of Grimes et al., being of a size to frictionally hold a wick – at 16 of Grimes et al. – see for example figure 2 of Grimes et al., and the second opening – proximate 14a of Grimes et al., is elongated and narrower than the first opening – see for example figure 2 of Grimes et al. Grimes et al. as modified by Baker et al. and Grimes et al. as modified by Huang do not disclose the first and second opening form a single opening. Hurwitt does disclose the first opening – at 22 as seen in figure 1, and the second opening – at any of items 24 as seen in figure 1, form a single opening – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of or Grimes et al. as modified by Baker et al. or Grimes et al. as modified by Huang and add the first and second opening forming a single opening of Hurwitt, so as to allow for the liquid to be quickly absorbed by the wick and dispense the liquid.

Response to Arguments

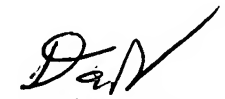
3. Applicant's arguments with respect to claims 18-23 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Parsley
Patent Examiner
Art Unit 3643